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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,442	01/13/2004	Harry Steinbok	S-1103	1068

7590 12/22/2005

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EXAMINER

EPPS, TODD MICHAEL

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/755,442	Applicant(s) STEINBOK, HARRY	
	Examiner Todd M. Epps	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 14-24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7, 10, 11, 12, 13, 25-34 is/are allowed.
- 6) ☒ Claim(s) 1-6, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/31/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This is the second Office Action **final** for serial number 10/755,442, Serving Utensil on Retractable Tether, filed on January 13, 2004.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,216,605 to Chapman in view of U.S. Patent No. 5,382,196 to Lodrick.

Chapman '605 teaches a tether member (60) with an external mounting (20, and 12), a serving utensil (41) coupled to free end of tether member (60) on fixed coupling means (fig. 2), and in which a serving utensil is a serving spoon (41), wherein an external mounting is a sneeze shield (12). However, Chapman '605 fails to disclose a retractable tether housing member for rotatably retracting a tether into a retractable tether housing member. Attention is directed to the Lodrick '196 reference, which teaches a retractable tether housing member for rotatably retracting a tether into a retractable tether housing member. Accordingly, it would have been obvious to one ordinary skill in the art at the time the invention was made to have a retractable tether of Chapman '605 with a retractable tether housing member for rotatably retracting a tether into a retractable tether housing member as taught by Lodrick '196 wherein doing so would provide secured for a serving utensil back in one position.

Regarding claim 4, Chapman '605 in view of Lodrick '196 fails to disclose a serving utensil, which is a pair of tongs. It would have been obvious to one ordinary skill in the art at the time the invention was made to have a pair of tongs in order to provide convenience for picking up food onto the plate.

Claims 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chapman in view of U.S. Patent number 2,308,771 to Mooney.

Regarding claim 8, and 9, Chapman fails to disclose a temporary coupling, or suction cup coupling, having a suction cup connected temporarily between sneeze shield and retractable tether housing. Attention is directed to the Mooney reference, which teaches a suction cup coupling to a wall, with a retractable tether housing attached to it. Accordingly, it would have been obvious to one ordinary skill in the art at the time the invention was made to have a retractable tether housing of Chapman with a suction cup coupling as taught by Mooney wherein doing so would provide ease for removal when cleaning sneeze shield.

Allowable Subject Matter

Claims 7, 10-13, and 25-34 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

In regards to claim 7, the prior art fails to teach a fixed coupling means is an eye means with a shaft means extending therefrom.

In regard to claims 10-11, the prior art fails to teach the external mounting means is a base plate with a shaft extending at normal therefrom.

In regard to claims 12-13, the prior art fails to teach the external mounting means is a shaft having a connector means at one end and a clamp connector.

In regards to claim 25, and 29-30, the prior art fails to teach an eye hook with a threaded shaft and said threaded shaft extends through a hole in said sneeze shield and is held in place by a threaded nut.

In regard to claims 26, and 31-32, the prior art fails to teach a shaft having a first end, said first end includes a means for securing said shaft to said container supported on said salad bar, and having a distal end, said distal end includes a means for securing said retractable tether means to said shaft.

In regard to claims 27-28, and 33-34, the prior art fails to teach a shaft having a first end, said first end includes a means for securing said shaft to said container supported on said salad bar, and having a distal end, said distal end includes a housing for receiving and securing said retractable tether.

Response to Arguments

Applicant's arguments filed October 31, 2005 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claim 1 have been considered, but are moot in view of the new ground (s) of rejection with a retractable tether housing member for rotatably retracting a tether into a retractable tether housing member.

In response to applicant's argument that Chapman '605 reference with a child's high chair tray is not a salad bar. The Examiner clearly disagrees. In claim 1, a salad bar is a positive cited, and a tray with a bowl can be used as a salad bar.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one ordinary skill in the art at the time the invention was made to have a pair of tongs in order to provide convenience for picking up food onto the plate, and to have a retractable tether housing of Chapman with a suction cup coupling as taught by Mooney wherein doing so would provide ease for removal when cleaning sneeze shield.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd M. Epps whose telephone number is 571-272-8282. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 571-272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3632

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Todd M. Epps
Patent Examiner
Art Unit 3632
December 15, 2005


ROBERT P. OLSZEWSKI
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